

ORIGINAL

OPEN MEETING ITEM



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BEFORE THE ARIZONA CORPORATION COMMISSION

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MIKE GLEASON
Chairman

WILLIAM A. MUNDELL
Commissioner

JEFF HATCH-MILLER
Commissioner

KRISTIN K. MAYES
Commissioner

GARY PIERCE
Commissioner

2007 OCT -5 A 10: 28

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

OCT 05 2007

DOCKETED BY

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STAFF of the Utilities Division,

Complainant,

vs.

TOTAL CALL INTERNATIONAL, INC.

Respondent.

DOCKET NO. T-04004A-01-0259

COMPLAINT AND PETITION FOR
ORDER TO SHOW CAUSE

Staff of the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission"), for its Complaint against Total Call International, Inc. ("Total Call" or "Company"), an Arizona Public Service Corporation, alleges:

JURISDICTION

1. The Commission has jurisdiction to hear complaints against public service corporations pursuant to A.R.S. § 40-246. The Commission has jurisdiction to supervise and regulate public service corporations pursuant to Article XV of the Arizona Constitution and Title 40 of the Arizona Revised Statutes.

FACTUAL BACKGROUND

2. Respondent Total Call International, Inc. ("Total Call" or "Company") is a public service corporation as defined by Article XV of the Arizona Constitution and A.R.S. § 40-282.

3. On March 27, 2001, Total Call filed with the Commission an application for a CC&N to provide competitive intrastate telecommunications services as a long distance reseller within the State of Arizona.

1 4. On October 4, 2001, in Decision No. 64065, the Commission issued a CC&N to
2 Total Call conditioned upon timely compliance.

3 5. The Company was ordered to file conforming tariffs within 30 days of the effective
4 date of the Decision. The due date to file was November 5, 2001, and the Company filed their
5 tariffs on October 17, 2001.

6 6. The Company was ordered to notify the Compliance Section of the Utilities
7 Division of the date it will begin or has begun providing service to Arizona customers within 30
8 days of the effective date of the Commission's Decision. The Company notified the division on
9 November 20, 2001, that it would begin providing service in January 2002. The Company filed a
10 letter on December 20, 2001, indicating that it would begin providing service on January 20, 2002.

11 7. The Company was ordered to file Fair Value Rate Base ("FVRB") information
12 within 18 months of the date it first provides service. The due date for this filing was June 20,
13 2003. The Company filed this information on June 28, 2007.

14 8. The Company was to procure a performance bond equal to \$10,000 and file the
15 bond in Docket Control within 90 days of the effective date of the Decision or 30 days prior to the
16 provision of service, whichever came first. The due date for this filing was December 20, 2001.
17 The Company has yet to procure a performance bond. The Company continues to state that they
18 are working on procuring the bond but have been unable to find a Bond Company that would issue
19 such a small bond.

20 9. On August 9, 2007, Staff again contacted the Company regarding the performance
21 bond and received a similar response that they are working on it and it is not being ignored.

22 10. On August 29, 2007, Attorneys for the Company filed a Motion for waiver of the
23 required performance bond.

24 11. During Staff's investigation it was discovered that the Company had filed another
25 request for a CC&N to provide competitive intrastate telecommunications services as a long
26 distance reseller in Docket NO. T-04224A-06-0098 filed on February 16, 2006. Staff in the newer
27 case filed an insufficiency letter on July 13, 2006. There has been no activity in the docket since
28 that filing. Staff filed a memorandum to administratively close this Docket on October 4, 2007.

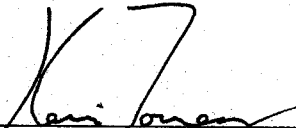
12. Staff's investigation has concluded that Total Call is currently conducting business in the State of Arizona. The Company's 2006 Annual Report indicates the total revenue received from Arizona operations was \$156,539.12.

RECOMMENDATION

13. Staff recommends that the Commission issue an Order to Show Cause directing Total Call to appear and show cause:

- (1) Why its actions do not constitute a violation of Commission Decision No. 64065.
- (2) Why its actions do not represent a violation of A.R.S. § 40-204.
- (3) Why Total Call has failed to file the Performance Bond as required by Decision No. 64065.
- (4) Why the Commission should not impose sanctions against Total Call.
- (5) Why the Commission should not render Decision No. 64065 null and void and cancel the Certificate of Convenience and Necessity of Total Call.

RESPECTFULLY SUBMITTED this 5th day of October, 2007.



Kevin O. Torrey
Attorney, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

1 Service List for: Total Call International, Inc.
2 Docket No. T-04004A-01-0259

3 Original and 18 copies of the foregoing
4 filed this 5th day of October, 2007 with:

5 Docket Control

6 Arizona Corporation Commission
7 1200 West Washington Street
8 Phoenix, Arizona 85007

9 Copies of the foregoing hand-delivered
10 this 5th day of October, 2007 to:

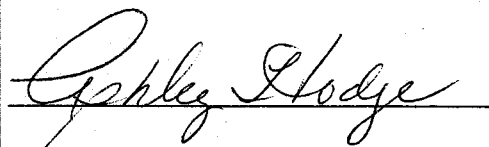
11 Mr. Christopher C. Kempsey
12 Chief Counsel, Legal Division
13 Arizona Corporation Commission
14 1200 West Washington
15 Phoenix, Arizona 85007

16 Mr. Ernest G. Johnson
17 Director, Utilities Division
18 Arizona Corporation Commission
19 1200 West Washington
20 Phoenix, Arizona 85007

21 Copies of the foregoing mailed this
22 5th day of October, 2007 to:

23 Mr. Mark Leafstedt
24 Total Call International, Inc.
25 707 Wilshire Boulevard
26 Los Angeles, California 90017

27 Mr. Patrick D. Crocker
28 Early, Lennon, Crocker & Bartosiewicz, PLC
900 Comerica Building
Kalamazoo, Michigan 49007-4752

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28

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 MIKE GLEASON
Chairman

3 WILLIAM A. MUNDELL
Commissioner

4 JEFF HATCH-MILLER
Commissioner

5 KRISTIN K. MAYES
Commissioner

6 GARY PIERCE
Commissioner

7
8 STAFF of the Utilities Division,

9
10 Complainant,

11 vs.

12 TOTAL CALL INTERNATIONAL, INC.
Respondent.

DOCKET NO. T-04004A-01-0259

DECISION NO. _____

ORDER TO SHOW CAUSE

13
14
15 Open Meeting
October 23 and 24, 2007
16 Phoenix, Arizona

17 BY THE COMMISSION:

18 FINDINGS OF FACT

19 1. Respondent Total Call International, Inc. ("Total Call" or "Company") is a public
20 service corporation as defined by Article XV of the Arizona Constitution and A.R.S. § 40-282.

21 2. On March 27, 2001, Total Call filed with the Commission an application for a
22 CC&N to provide competitive intrastate telecommunications services as a long distance reseller
23 within the State of Arizona.

24 3. On October 4, 2001, in Decision No. 64065, the Commission issued a CC&N to
25 Total Call conditioned upon timely compliance.

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27 date of the decision. The due date to file was November 5, 2001, and the Company filed their
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10 bond in Docket Control within 90 days of the effective date of the Decision or 30 days prior to the
11 provision of service, whichever came first. The due date for this filing was December 20, 2001.
12 The Company has yet to procure a performance bond. The Company continues to state that they
13 are working on procuring the bond but have been unable to find a Bond Company that would issue
14 such a small bond.

15 8. On August 9, 2007, Staff again contacted the Company regarding the performance
16 bond and received a similar response that they are working on it and it is not being ignored.

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18 required performance bond.

19 10. During Staff's investigation it was discovered that the Company had filed another
20 request for a CC&N to provide competitive intrastate telecommunications services as a long
21 distance reseller in Docket NO. T-04224A-06-0098 filed on February 16, 2006. Staff in the newer
22 case filed an insufficiency letter on July 13, 2006. There has been no activity in the docket since
23 that filing. Staff filed a memorandum to administratively close this Docket on October 4, 2007.

24 11. Staff's investigation has concluded that Total Call is currently conducting business
25 in the State of Arizona. The Company's 2006 Annual report indicates the total revenue received
26 from Arizona operations was \$156,539.12.

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CONCLUSIONS OF LAW

1. Total Call is an Arizona public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution.

2. The Commission has jurisdiction over Total Call and over the subject matter of the complaint.

3. The Commission, having reviewed the complaint concludes that it is in the public interest to rescind Decision No. 64065 and to cancel the Certificate of Convenience and Necessity of Total Call International Inc.

ORDER

IT IS THEREFORE ORDERED that Total Call International, Inc. shall appear before the Commission to explain:

- (1) Why its actions do not constitute a violation of Commission Decision No. 64065.
- (2) Why its actions do not represent a violation of A.R.S. § 40-204.
- (3) Why Total Call has failed to file the Performance Bond as required by Decision No. 64065.
- (4) Why the Commission should not impose sanctions against Total Call.
- (5) Why the Commission should not render Decision No. 64065 null and void and cancel the Certificate of Convenience and Necessity of Total Call.

IT IS FURTHER ORDERED that if Total Call intends to appear as ordered above, it shall file within 10 days of the effective date of this Order a preliminary statement explaining its position. This filing must include an Answer to Staff's Complaint if the Respondent has not yet filed an Answer.

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IT IS FURTHER ORDERED that the Hearing Division shall schedule further appropriate proceedings.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I DEAN S. MILLER, Interim Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2007.

DEAN S. MILLER
Interim Executive Director

DISSENT: _____

DISSENT: _____

EGJ:KDB:lhmkT

1 Service List for: Total Call International, Inc.
2 Docket No. T-04004A-01-0259

3 Mr. Mark Leafstedt
4 Total Call International, Inc.
5 707 Wilshire Boulevard
6 Los Angeles, California 90017

7 Mr. Patrick D. Crocker
8 Early, Lennon, Crocker & Bartosiewicz, PLC
9 900 Comerica Building
10 Kalamazoo, Michigan 49007-4752

11 Mr. Christopher C. Kempley
12 Chief Counsel, Legal Division
13 Arizona Corporation Commission
14 1200 West Washington
15 Phoenix, Arizona 85007

16 Mr. Ernest G. Johnson
17 Director, Utilities Division
18 Arizona Corporation Commission
19 1200 West Washington
20 Phoenix, Arizona 85007